

# SENATE BILL No. 291

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-38-2-1; IC 4-10-22.

**Synopsis:** Sex or violent offender tracking program. Creates the public safety technology fund to purchase, operate, and maintain a qualified sex or violent offender tracking program. Establishes a \$1 probation technology fee to fund the public safety technology fund, and provides that the attorney general shall administer the fund.

**Effective:** July 1, 2010.

**Steele**

January 11, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## SENATE BILL No. 291

A BILL FOR AN ACT to amend the Indiana Code concerning corrections and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-38-2-1, AS AMENDED BY P.L.1-2006,  
2 SECTION 529, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Whenever it places a person  
4 on probation, the court shall:

- 5 (1) specify in the record the conditions of the probation; and  
6 (2) advise the person that if the person violates a condition of  
7 probation during the probationary period, a petition to revoke  
8 probation may be filed before the earlier of the following:

9 (A) One (1) year after the termination of probation.

10 (B) Forty-five (45) days after the state receives notice of the  
11 violation.

12 (b) In addition, if the person was convicted of a felony and is placed  
13 on probation, the court shall order the person to pay to the probation  
14 department the user's fee prescribed under subsection (d). If the person  
15 was convicted of a misdemeanor, the court may order the person to pay  
16 the user's fee prescribed under subsection (e). The court may:

- 17 (1) modify the conditions (except a fee payment may only be



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modified as provided in section 1.7(b) of this chapter); or  
 (2) terminate the probation;  
 at any time. If the person commits an additional crime, the court may  
 revoke the probation.

(c) If a clerk of a court collects a probation user's fee, the clerk:

(1) may keep not more than three percent (3%) of the fee to defray  
 the administrative costs of collecting the fee and shall deposit any  
 fee kept under this subsection in the clerk's record perpetuation  
 fund established under IC 33-37-5-2; and

(2) if requested to do so by the county auditor, city fiscal officer,  
 or town fiscal officer under clause (A), (B), or (C), transfer not  
 more than three percent (3%) of the fee to the:

(A) county auditor, who shall deposit the money transferred  
 under this subdivision into the county general fund;

(B) city general fund when requested by the city fiscal officer;  
 or

(C) town general fund when requested by the town fiscal  
 officer.

(d) In addition to any other conditions of probation, the court shall  
 order each person convicted of a felony to pay:

(1) not less than twenty-five dollars (\$25) nor more than one  
 hundred dollars (\$100) as an initial probation user's fee;

(2) a monthly probation user's fee of not less than fifteen dollars  
 (\$15) nor more than thirty dollars (\$30) for each month that the  
 person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and  
 confirm the presence of the human immunodeficiency virus (HIV)  
 antigen or antibodies to the human immunodeficiency virus (HIV)  
 if such tests are required by the court under section 2.3 of this  
 chapter;

(4) an alcohol abuse deterrent fee and a medical fee set by the  
 court under IC 9-30-9-8, if the court has referred the defendant to  
 an alcohol abuse deterrent program; ~~and~~

(5) an administrative fee of one hundred dollars (\$100); **and**

**(6) a probation technology fee of one dollar (\$1);**

to either the probation department or the clerk.

(e) In addition to any other conditions of probation, the court may  
 order each person convicted of a misdemeanor to pay:

(1) not more than a fifty dollar (\$50) initial probation user's fee;

(2) a monthly probation user's fee of not less than ten dollars  
 (\$10) nor more than twenty dollars (\$20) for each month that the  
 person remains on probation;

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(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; ~~and~~

(4) an administrative fee of fifty dollars (\$50); **and**

**(6) a probation technology fee of one dollar (\$1);**  
to either the probation department or the clerk.

(f) The probation department or clerk shall collect the administrative fees under subsections (d)(5) and (e)(4) before collecting any other fee under subsection (d) or (e). All money collected by the probation department or the clerk under this section shall be transferred to the county treasurer, who shall, **except as provided in subsection (n)**, deposit the money into the county supplemental adult probation services fund. The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

(1) to the county, superior, circuit, or municipal court of the county that provides probation services to adults to supplement adult probation services; and

(2) to supplement the salaries of probation officers in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(g) The probation department or clerk shall collect the administrative fee under subsection (e)(4) before collecting any other fee under subsection (e). All money collected by the probation department or the clerk of a city or town court under this section shall be transferred to the fiscal officer of the city or town, **who shall, except as provided in subsection (n)**, ~~for~~ deposit ~~the money~~ into the local supplemental adult probation services fund. The fiscal body of the city or town shall appropriate money from the local supplemental adult probation services fund to the city or town court of the city or town for the court's use in providing probation services to adults or for the court's use for other purposes as may be appropriated by the fiscal body. Money may be appropriated under this subsection only to those city or town courts that have an adult probation services program. If a city or town court does not have such a program, the money collected by the probation department must be transferred and appropriated as provided under subsection (f).

(h) Except as provided in subsection (j), the county or local supplemental adult probation services fund may be used only to supplement probation services and to supplement salaries for probation

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officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.

(i) A person placed on probation for more than one (1) crime:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month; to the probation department or the clerk.

(j) This subsection applies to a city or town located in a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). Any money remaining in the local supplemental adult probation services fund at the end of the local fiscal year may be appropriated by the city or town fiscal body to the city or town court for use by the court for purposes determined by the fiscal body.

(k) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(l) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (d) or (e).

(m) The probation department shall forward the credit card service fees collected under subsection (l) to the county treasurer or city or town fiscal officer in accordance with subsection (f) or (g). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

**(n) The county treasurer or the fiscal officer of a city or town shall semiannually distribute to the auditor of state money collected under subsections (d)(6) and (e)(6) for deposit in the public safety technology fund (IC 4-10-22-3).**

SECTION 2. IC 4-10-22 IS ADDED TO THE INDIANA CODE AS

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A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

**Chapter 22. Public Safety Technology Fund**

**Sec. 1.** As used in this chapter, "fund" means the public safety technology fund established by section 3 of this chapter.

**Sec. 2.** As used in this chapter, "qualified sex or violent offender tracking program" means a computer software program capable of registering, tracking, and monitoring sex or violent offenders (as defined in IC 11-8-8-5). A qualified sex or violent offender tracking program must have the following capabilities:

- (1) The ability to register and track offenders in accordance with Indiana law, including the ability to store all registration data required by statute.
- (2) Customizable scheduling for offender verification.
- (3) Calendar functionality.
- (4) A searchable data base that is maintained by the vendor.
- (5) Mapping capability that is capable of verifying addresses and identifying exclusion zones.
- (6) The ability to offer integrated community notification, including customizable electronic mail notification.
- (7) Guaranteed ninety-nine and nine-tenths percent (99.9%) uptime.
- (8) Full-time user support services.

**Sec. 3. (a)** The public safety technology fund is established for the purpose of purchasing, operating, and maintaining a qualified sex or violent offender tracking program. The fund shall be administered by the attorney general. The fund consists of:

- (1) money deposited in the fund from the probation technology fee under IC 35-38-2-1;
- (2) grants; and
- (3) donations.

**(b)** The expenses of administering the fund shall be paid from money in the fund.

**(c)** The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

**(d)** Money in the fund at the end of a state fiscal year does not revert to the state general fund.

**(e)** Money in the fund is continually appropriated to carry out the purposes of the fund.

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